IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2884/2002

ASHOK GUPTA Vs. STATE OF RAJASTHAN & ANR.

DATE: 14.09.2007

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Mukesh Meena for
Mr. A.K. Sharma for the petitioner.
Mr. Arvind Gupta for the respondents.

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By way of this writ petition, the petitioner has claimed the following reliefs:-

> (i) issue an appropriate writ, order or direction and after calling for and examining the record of the case, the action of the respondents in rejecting the proposed Building Plan of the petitioner for construction on roofs over shop Nos. 46 and 47 situated at Kutchery Road, Ajmer be declared to be illegal, arbitrary, unreasonable, discriminatory, unconstitutional and without authority of law and the respondents be directed to approve the Building Pan of the petitioner forthwith or within such reasonable time as may be directed by this Hon'ble Court.
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> (ii) issue appropriate writ, order or direction quashing the impugned letter dated 19.02.2002 and the letter referred to therein being contrary to the order dated 25.09.1986 passed by the Collector, Ajmer in Municipal Appeal No. 23/85 as well as decisions of this Hon'ble Court dated 10.11.95 and 22.10.97

passed in S.B. Civil Writ Petition No. 731/85 and D.B. Special Appeal (Writ) No. 274/96 in the case of Kushal Chand Sancheti and the respondents be directed to give the benefit of the said decisions to the petitioner as has been given to Kushan Chand Sancheti in case of roofs over shop Nos. 30 and 31.

(iii) issue any other appropriate writ, order or direction as may be deemed just and proper in the facts and circumstances of the case in favour of the humble petitioner.

(iv) cost of the petition be kindly allowed in favour of the petitioner.

Learned counsel for the petitioner submits that the similar controversy has been decided by this Court in S.B.C.W. Petition Nos. 1976/2007 and 8856/2002 vide judgments dated 13.12.2005 and 16.09.2005 respectively. Similar controversy with identical prayer was raised before this Court in S.B. Civil Writ Petition No. 731/85, which was decided by this Court vide judgment dated 10.11.95, against which a D.B. Special Appeal (Writ) No. 274/96 was filed and the same was decided vide judgment dated 22.10.97, whereby the order of the learned Single Judge dated 10.11.95 has been upheld. Against the said judgment of the Division Bench dated 22.10.97, SLP was filed before the Hon'ble Supreme Court and the same was also dismissed on 07.09.98. Thereafter, the Co-ordinate Bench of this

Court vide judgment dated 13.12.2005, allowed the another identical writ petition i.e. S.B.C.W. Petition No. 1976/2007 treating the aforesaid judgment as part of the judgment dated 13.12.2005.

In the present case, the controversy is with regard to shop Nos. 46 and 47, therefore, in the light of the aforementioned judgments, the respondents are directed to decide the case of the petitioner.

The writ petition stands allowed accordingly.

The stay application also stands disposed of.

(K.S. RATHORE),J.

/KKC/